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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,276	10/20/2000	Kenneth R. Owens	4910.00002	7435
7590	11/02/2004			EXAMINER TON, DANG T
Joseph P Krause Vedder Price Kaufman & Kammholz 222 N LaSalle Street Chicago, IL 60601			ART UNIT 2666	PAPER NUMBER

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/693,276	OWENS ET AL.
	<b>Examiner</b>	Art Unit
	DANG T TON	2666

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 20 October 2000.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-13 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buyukkoc et al. ( 6,463,062) in view of Rekter ( 6,339,595).

For claims 1-5 and 8-13, Buyukkoc et al. disclose integrating switching and facility networks using ATM comprising :

identifying a reverse notification tree of data switches and data paths (see B5 tree from SW 170 to SW 130 to SW 120 to SW 111 and B7 in figure 3);

upon the occurrence of a pre-determined event, routing a first message from the second switch to the first switch via the reverse notification tree (see path 122 from SW 170 to SW 130 in figure 3);

wherein the reverse notification tree is co-incident with a working path through the network ( see paths 122,113,111 in figure 3);

wherein the topology of the reverse notification tree can be represented by a directed graph (see graph in figure 3);

wherein the data switches are asynchronous transfer mode switches function as label switched routers (see column 2 lines 11-26);

wherein the data switches are internet protocol routers;

wherein at least one of the switches maintains a table of incoming link and path identifiers and of outgoing link and path identifiers (see column 15 line 1-14);

wherein the first data switch is a protection switch element (see SW 130 in figure 3);

wherein the second data switch is a protection merge element (see SW 180 in figure 3);

a destination switching system, to which data is sent from at least one data switch that is upstream from the first destination switch (see Sw 110);  
a first upstream switching system ( see paths 122,113, and 111 in figure 3);  
a first upstream data link, coupling the destination switching system to

the first upstream switching system over which an upstream message is sent from the destination switching system to the first upstream switching system (see paths 122,111,113 in figure 3);

wherein the first upstream data link is coincident with a downstream data link ( see paths 118,114, and 112 in figure 3); and

where the destination switching system maintains a table identifying upstream switching systems (see column 15 lines 1-14).

For claims 1-5 and 8-13, Buyukkoc et al. disclose all the subject matter of the claimed invention with the exception of using MPLS in a communications network. Rekhter et al. from the same or similar fields of endeavor teaches a provision of the MPLS (see column 34 lines 60-67) . Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the MPLS as taught by Rekhter et al. in the communications network of Buyukkoc et al. The MPLS can be implemented/modified into network of Buyukkoc et al. by replacing all ATM switches in figure 1 with MPLS switches. The motivation for using the MPLS as taught by Rekhter et al. in the communications network of Buyukkoc et al. being that it provides system more reliable since it prevents overflow due to MPLS switches.

4. Claims 6-7 rejected under 35 U.S.C. 103(a) as being unpatentable over Buyukkoc et al. as applied to claim 1 above, and further in view of Fang et al. (6,504,963).

For claims 6-7, Buyukkoc et al. and Rekhter et al. disclose all the subject matter of the claimed invention with the exception of using cross connects switches in a

communications network. Fang et al. the cross connects switches ( see box 950 in figure 14 ) . Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the cross connects switches as taught by Fang et al. in the communications network of Buyukkoc et al. and Rekhter et al. The cross connects switches can be implemented/modified into network of Buyukkoc et al. and Rekhter et al. by replacing all ATM switches in figure 1 with the cross connects switches. The motivation for using the cross connects switches as taught by Fang et al. in the communications network of Buyukkoc et al. and Rekhter et al. being that it reduces costs.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gibson et al. is cited to show a system which is considered pertinent to the claimed invention.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANG T TON whose telephone number is 571-272-3171. The examiner can normally be reached on MON-WED, 5:30 AM-6:00 PM and Thur 5:30-9:30 A.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Ton



DANG TON  
PRIMARY EXAMINER